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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 SKY MILLER,
12 Plaintiff,

13 v.

14 DICK MORGAN, *et al.*,
15 Defendants.

CASE NO. C10-5638BHS/JRC
ORDER DENYING A MOTION TO
COMPEL

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17 This civil rights action has been referred to the undersigned Magistrate Judge pursuant to
18 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate Judge Rules MJR 1, MJR 3,
19 and MJR 4. The matter is before the court on a second motion to compel discovery (ECF No.
20 19). Defendants have responded (ECF No. 20). Plaintiff has replied (ECF No. 21).

21 Plaintiff withdraws his motion as to all but two requests for production of documents
22 (ECF No. 21). Requests 11 and 12 are still at issue.

23 In request for production 11, plaintiff asks for a list of all employees who worked in the
24 mail room at McNeil Island during the time frame when alleged retaliatory acts took place.
25 Defendants object, claiming that no such list exists and a request for production cannot force a
26 party to create a document. Defendants are correct. Plaintiff should pursue gathering this

1 information through another form of discovery or ask for documents that do exist. The motion to
2 compel a response to request for production 11 is DENIED.

3 Request for production 12 asks for medical records from September 2009 through
4 October 1, 2010. Defendants respond by stating that the records are available for review and
5 copying. An order compelling production is not needed since the records are available for
6 review and copying. The fact that there may be a fee for copies does not make a motion to
7 compel proper. The in forma pauperis statute does not relieve a plaintiff of the costs of obtaining
8 copies. Tedder v. Odel, 890 F.2d 210, 211-12 (9th Cir. 1989). The motion is DENIED.
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10 DATED this 8th day of March, 2011.
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14 J. Richard Creatura
United States Magistrate Judge
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